

PART 5342--CONTRACT ADMINISTRATION

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SUBPART 5342.2--ASSIGNMENT OF CONTRACT ADMINISTRATION**5342.203 Retention of contract administration.**

(a)(iii) Air Force purchasing offices shall normally retain responsibility for administering weapon system contracts which require performance on military installations that do not have a resident CAO. Examples of such contracts include site activation, weapon system modification and maintenance, site operation and maintenance, and specific weapon system testing.

5342.204 Supporting contract administration.

(a) See 5342.270-90 for policy and procedures for requesting support from DCMC in administering Air Force contracts on military installations.

5342.270-90 Weapon system contract administration at Air Force installations not having a resident CAO.

(a) Policy. As an exception to the policy at 5342.203(a)(iii) above, the purchasing office may request Defense Contract Management Command (DCMC) to administer on-base weapon system contracts when mission considerations, technical skill requirements, and manpower availability warrant the delegation and "mixed CAS" will not occur (i.e. where more than one CAS activity deals with the same contractor at the same military installation). This policy enhances Air Force management of weapon systems contracts, and ensures the best use of Air Force and DCMC technical expertise and manpower resources. When DCMC is responsible for administering an on-base weapon system contract, the Air Force may provide direct technical support to DCMC (e.g., quality assurance), if DCMC agrees.

(b) Responsibility. When a purchasing activity (or other requesting activity) arranges for a base or another organization (servicing organization) to perform CAS functions at an installation, the purchasing/requesting activity shall provide whatever instruction, assistance or supervision is necessary for the servicing organization to perform the delegated CAS functions. This includes providing manpower spaces and funding until the servicing organization can obtain these through the resource requirement process.

(c) Planning. In order to ensure that CAS resources and procedures are in-place when needed, begin planning at the

earliest possible time. Planning leadtimes range from six months to three years. During this process also identify contractor technical training personnel that will be needed.

(d) CAS tasks. Limit requests to essential tasks. Coordinate the delegation request with concerned Air Force organizations (e.g., Western Space and Missile Center) prior to requesting a base or another servicing organization to perform CAS functions. Delegations may be expanded if the servicing organization agrees (also see FAR 42.102(c), (d), and (e) FAR 42.202, FAR 42.204, 42.206.)

(e) CAO selection. Base the selection of the CAO on-- (i) mission needs (i.e the need for direct Air Force management control); (ii) the required technical skill and knowledge of pertinent Air Force and DoD procedures; (iii) manpower availability (whether CAS functions can be accomplished along with regular duties or require full time personnel Air Force personnel on-site); and the need to avoid mixed CAS performance (see DFARS 242.203(a)(iii)(B)).

(f) CAS delegation. Delegate specific CAS functions to a base or other servicing organization using a written document, such as a letter or memorandum of agreement. This document shall, at a minimum, identify-- (i) the specific responsibilities delegated; (ii) points of contact in the purchasing/requesting activity; and (iii) reporting requirements.

SUBPART 5342.5--POSTAWARD ORIENTATION**5342.503 Postaward conferences.**

5342.503-1 Postaward conference agreements. (a) Postaward or preperformance conferences are mandatory for construction contracts in excess of \$100,000 that are substantially performed on government premises. Contracting officers may require such conferences below \$100,000, if determined necessary. The contracting officer shall consider the following factors in making this determination: (i) if the contractor is new on base, (ii) if the contractor has not performed on government contracts for some time, (iii) if the work must be coordinated with the requiring activity, or (iv) the complexity and/or scope of the specifications.

(b) AF Form 3035, Preperformance Conference and Prefinal Payment Check List, sets forth important factors to

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be discussed at a construction contract preperformance conference.

5342.504 Postaward letters. If a preperformance conference is not being held for a construction contract, the contracting officer shall write a letter to the contractor explaining the applicable items referred to on the AF Form 3035. When a letter is used instead of a conference, include in the contract file a statement justifying the substitution and the contractor's acknowledgement of its receipt and understanding of the responsibilities stated in the letter.

SUBPART 5342.7--INDIRECT COST RATES

5342.770 Certificate of indirect costs.

5342.770-3 Waiver of certification. Forward requests for Secretarial waiver through MAJCOM channels to SAF/AQCP for processing through SAF/AQ to SAF/OS.

SUBPART 5342.71--VOLUNTARY REFUNDS

5342.7101 Solicited refunds.

5342.7101-90 Procedures applicable to other than spare parts.

(a) The HCA shall establish procedures to ensure that proper action is taken regarding voluntary refunds based on extra contractual consideration and for determining the amount to be sought.

(b) Except for refund actions recommended by the GAO (see (e) below), the authority to approve solicitation of a voluntary refund is delegated to the HCA (non-delegable). If the refund action being initiated results from in-house investigation, the staff officer shall prepare a detailed statement which includes the following information and forward the statement to the HCA--

- (1) The facts of the case.
- (2) Reason for seeking a price adjustment. and
- (3) The proposed action to be taken.

(c) After MAJCOM/JA coordination (as a minimum), the HCA may approve proceeding with the action.

(d) Upon receipt of approval from the HCA to proceed with the proposed action, the staff officer shall prepare a letter to the president or principal officer of the contractor that--

- (1) Advises the contractor that the action is on behalf of

the HCA and the results of the action will be forwarded to the HCA;

(2) States the results of the staff review of the matter;

(3) Advises that the Air Force considers it important that an equitable adjustment be made promptly;

(4) Requests the contractor to refund the determined amount or make the necessary adjustment voluntarily; and

(5) If desired, invites the contractor's president or appropriate principal officer to personally discuss the payment of the refund to the government.

(e) If the refund action was recommended by the GAO, the staff officer shall--

(1) Prepare a proposed response to the GAO, containing the information required by (b) above, and forward it to SAF/AQCP for review and approval by SAF/AQ; and

(2) Upon notification of SAF/AQ approval, prepare a letter to the president or principal officer of the contractor, containing the information required by (d) above, except that the letter shall advise the contractor that the action is on behalf of the Secretary of the Air Force.

(f) Whenever the Air Force does not comply with a GAO recommendation for refund action, the Air Force position is included in the GAO report to Congress. Therefore, a thorough analysis and justification of the Air Force position is imperative. Careful consideration shall be given what legal recourse is available.

(1) If a GAO recommendation to seek a refund is rejected, the response to GAO shall adequately state the facts and arguments supporting the command's position. The response shall also address the results of the consideration of legal recourse.

(2) A decision to solicit less than the GAO recommended amount of refund must be supported by a fully documented determination approved by the staff officer responsible for contracting at the command headquarters and have the concurrence of the MAJCOM commander.

(3) If the MAJCOM agrees with the recommendation but fails to obtain a refund because of the contractor's refusal, the response shall state the basis for the refusal and whether or not the command agrees with it. The staff officer responsible for contracting at the command headquarters

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ters shall exhaust every reasonable means to obtain the refund or adjustment. If unsuccessful, the staff officer shall report to the HCA the action taken and recommend whether any further action should be taken. If further action is appropriate, the matter may be elevated to the MAJCOM commander, with the recommendation that the commander pursue the refund with the contractor's top management.

5342.7101-91 Procedures applicable to spare parts.

(a) HQ AFMC/CC has the authority to solicit voluntary refunds pertaining to the acquisition of either initial or replenishment spare parts. This authority may be redelegated to the commanders of air logistics and product centers, without authority to redelegate. HQ AFMC shall establish procedures to ensure that proper action is taken regarding voluntary refunds pertaining to the acquisition of either initial or replenishment spare parts and for determining the amount to be sought.

(b) The staff officer responsible for contracting at the approval level headquarters, or higher authority, is responsible for determining what action should be taken to solicit a refund based on extra contractual consideration and for determining the amount to be sought.

(c) The contracting officer may also initiate an in-house investigation to determine if such action should be taken. If investigation results indicate that a refund action is appropriate, the contracting officer shall:

(1) Submit a statement to the approval level headquarters including the following information--

(i) The facts of the case;

(ii) Reason for seeking a price adjustment;

(iii) The proposed action to be taken;

(iv) A determination by legal counsel that no other remedy is available or appropriate and that solicitation or receipt of the refund will not jeopardize the rights of the Government; and,

(v) The results of any audits or other substantiating reviews.

(2) Consider obtaining a DCAA audit to substantiate the request, if the refund is significant and is based upon facts obtainable only through reviews of contractor records (i.e. costs incurred);

(3) Upon receipt of approval to solicit the refund, prepare a letter to the president or principal officer of the contractor which shall include the information required by 5342.7101-90(d), except that the letter shall indicate that the contracting officer is acting on behalf of the approving authority. Send an information copy to the HCA.

(d) If the refund action has been recommended by the GAO, the staff officer shall comply with the requirements of 5342.7101-90(e) and (f).

(e) The staff officer responsible for contracting at the approval level headquarters shall exhaust every reasonable means to obtain the refund or adjustment. If unable to secure the refund, the staff officer shall report to the approving authority the action taken and recommend whether any further action should be taken (which may include elevating the matter, through channels, to the commander of the major command, with the recommendation that the commander pursue the refund with the contractor's top management).

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